

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 08-4480

DARRELL G. OBER,
Appellant

v.

COMMISSIONER JEFFERY B. MILLER; LT. COLONEL RALPH PERIANDI;
MAJOR LEONARD MCDONALD; LT. JOHN BROWN;
MAJOR CHARLES SKURKIS; CORPORAL ROBERT MRGICH; JACK LEWIS;
MAJOR COLEMAN J. MCDONOUGH; CAPTAIN ROBERT
B. TITLER; JOANNA REYNOLDS

On Appeal from the United States District Court
for the Middle District of Pennsylvania

No. 1-04-cv-01669

District Judge: Honorable Christopher C. Conner

Submitted Pursuant to
Third Circuit LAR 34.1(a)
September 20, 2010

Before: McKee, *Chief Judge*, Ambro and Chagares, *Circuit Judges*.

(Opinion Filed: September 27, 2010)

OPINION

MCKEE, *Chief Judge*

Darrell Ober appeals the district court's dismissal of the action he brought under

42 U.S.C. § 1983 in which Ober alleged that the defendants illegally retaliated against him for exercising his First Amendment rights of free speech. We will affirm.

In his “Statement of Questions Presented,” Ober raises the following four claims: “(1) Whether the trial Court violated the applicable Standard of Review; (2) Whether Ober violated any interests by talking with his attorney? (3) Whether Ober suffered retaliation for exercising his right to seek the advice of counsel? [and] (4) Whether Ober made out claims of his federally guaranteed rights?” Appellant’s Br. at 2.

We exercise plenary review over the district court’s grant of summary judgment in favor of the defendants, and apply the same test the district court should have applied. *Hill v. City of Scranton*, 411 F.3d 118, 124 (3d Cir. 2005). We therefore must review the record as a whole, “draw[ing] all reasonable inferences in favor of the non-moving party,” without making credibility determinations or weighing the evidence. *Id.*

Although some of the issues presented in the “Statement of Questions Presented” are less than clear, it is clear that Ober is arguing that the district court erred in numerous ways in granting summary judgment to the defendants and dismissing his complaint.

We have reviewed this record and the thorough and well reasoned Memorandum filed by the district court on December 18, 2007, addressing the merits of Ober’s claim, as well as the equally well reasoned Memorandum filed on July 21, 2008, addressing the Defendants’ renewed motion for summary judgment. *See* App. 18-68, 70 to 78. Although Ober’s brief is quite dismissive of the district court’s analysis, we believe there is little

that we can add to that court's thoughtful explanation of why the Defendants are entitled to judgment as a matter of law. We will therefore affirm the district court's grant of summary judgment substantially for the reasons set forth by the district court in its thoughtful Memoranda.